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December 9, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

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DEC 10 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 94-129
Implementation of the Subscriber Carrier Selection Changes Provisions of
the Telecommunications Act of 1996

Dear Ms. Salas:

Birch Telecom, Inc. ("Birch") is writing to bring to the Commission's attention serious problems that Birch has encountered with Southwestern Bell Telephone Company's ("SWBT") local service Primary Carrier ("PC") freeze option. Birch is a competitive local exchange carrier ("CLEC") providing both resale and facilities-based service in Kansas and Missouri, where it is both a customer of, and a competitor to, SWBT.

In the *Further Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 10674 (1997) (the "*Further Notice*") in this proceeding, the Commission recognized that PC freezes "could have the effect of limiting competition among carriers." *Further Notice* at 10688, ¶ 22. Birch's experience with SWBT's Customer Choice Protection ("CCP") option over the last several months confirms that the Commission's concern is justified and highlights the need for the Commission to adopt rules specifying pro-competitive procedures for the implementation of local service PC freezes.

Attached to this letter is the Statement of Richard L. Tidwell, Birch's Vice President of Regulatory and Industry Relations. The Statement details Birch's experience with SWBT's CCP option beginning in early summer 1998. Since then, Birch has lost a number of customers as a direct result of SWBT's CCP program, and has expended an inordinate amount of time and effort simply trying to convert the accounts of customers with CCP restrictions. It has been Birch's experience that SWBT consistently fails to follow its own procedures for removing CCP restrictions and continues to change those procedures haphazardly. The result is that the simple task of converting a customer who has requested Birch as its local service provider is made complicated and frustrating for both Birch and the customer.

The Statement highlights three categories of problems that Birch has encountered with SWBT's CCP program. First, most of the customers that Birch encounters with CCP are unaware that it is on their account. In some cases this appears to be because the restriction was placed on the account without the customer's authorization. In other cases, it seems to be the result of overly-vague oral solicitations that result in customers agreeing to CCP essentially without knowing that they are doing so and without an adequate understanding of what the

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restriction is. When a Birch employee called SWBT to request a line, the SWBT representative who handled the call offered her CCP by saying: "Would you like at no additional charge, a customer choice protection plan, and that plan just protects your account from unauthorized changes without your written authorization?" The representative did not explain that the CCP restriction would make it more difficult to change service providers or what would be entailed in removing the option. Furthermore, the representative failed to explain the distinction between local and long distance service and that the restriction could be placed on either or both accounts.

Second, SWBT made the CCP option available before SWBT had adequate internal procedures in place. As a result, the SWBT personnel with responsibility for removing the CCP restriction from customer accounts are poorly trained, and in some instances are completely unfamiliar with the option. Compounding the problem is that SWBT has changed its procedures any number of times, presenting both its own representatives and Birch and other CLECs with a moving target as they attempt to comply.

Third, the removal of CCP from Birch customer accounts can only be accomplished by SWBT's retail business and residential operations. Those divisions are Birch's direct competitors and have no incentive to help Birch convert a customer away from them. In fact, they have every incentive to inhibit Birch's efforts to convert customers and to attempt to retain the customer for themselves.

Because of their inherently anti-competitive nature, it is imperative that the Commission adopt rules to ensure that incumbent carriers do not misuse local service PC freezes. At a minimum, the Commission should:

1. Make it a violation of its rules to place a PC freeze on a customer's account without the customer's express authorization or to engage in anticompetitive or misleading marketing practices in obtaining authorization. The Commission has recognized that, even where properly implemented, PC freezes can be anticompetitive because they may discourage customers from switching providers.
2. Require incumbent carriers to both solicit and obtain approval to place a PC freeze in writing. In addition, the Commission should require that the solicitation fully and clearly explain both the positive and negative aspects of the PC freeze. Customers must be informed that placing a PC freeze on an account can make it considerably more difficult to change service providers. The solicitation must also make it explicit whether the PC freeze relates to the customer's local service, long distance service, or both.
3. Require incumbent carriers to have published procedures for adding and removing PC freezes from customer accounts. Carriers should be required to demonstrate that the procedures were fully tested, that their employees have been trained in their use, and that they have been distributed to the industry in advance of offering a PC freeze

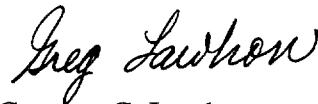
Magalie Roman Salas, Secretary
December 9, 1998
Page 3

option. The procedures must make it no more difficult to remove a PC freeze from an account than to add it in the first place.

4. Require incumbent carriers to assign responsibility for processing PC freeze removals to their wholesale operations which have responsibility and accountability to CLECs rather than to their retail operations, which are direct competitors to CLECs.

Birch believes that these safeguards are the minimum necessary to protect CLECs and customers from incumbent carrier abuses.

Sincerely,

A handwritten signature in cursive script, appearing to read "Greg Lawhon".

Gregory C. Lawhon
Senior Vice President and General Counsel
Birch Telecom, Inc.

STATEMENT OF RICHARD L. TIDWELL
Vice President of Regulatory and Industry Relations
Birch Telecom, Inc.

Birch Began to Experience Problems in Early Summer 1998

In March of 1998 Birch received an Accessible Letter from Southwestern Bell Telephone Company ("SWBT") announcing a new service to be offered to end users called Customer Choice Protection ("CCP"). A complete copy of the March 10 Accessible Letter is attached hereto as Exhibit 1. The letter explained that, effective March 18, 1998, SWBT would begin offering CCP "to customers who want to protect their interLATA and/or local service providers from being changed without their written consent." According to the procedures distributed with the letter, a customer could place a restriction on his or her account to prevent a change to the customer's local and/or long distance service provider. Once the restriction is placed on the account, the account cannot be converted to another provider, unless the customer first removes the restriction. The letter also stated that the restriction could only be added to or removed from an account at the written request of the customer.

In the next few months we had several customers who wanted to convert service to Birch that were found to have this restriction. We contacted the customers and they advised us that they knew about the restriction and would have it removed. We encountered no serious difficulties in converting the customer.

Beginning in early summer 1998, however, Birch began to experience problems converting local service customers from SWBT. When Birch personnel would input an

order to convert the customer through SWBT's OSS interface, they would receive an error message stating that there was a freeze on the account and the order would be rejected. Initially, this occurred only with a very small number of customers, but the frequency of problems quickly began to escalate. When we contacted the customers in question, they were unaware of the restriction on their account. Most were very sure they *had not* asked SWBT to put some type of restriction on their line.

We contacted SWBT regarding the frozen accounts. SWBT's initial response was that they were unaware of the freezes and could not provide Birch with either an explanation or a solution. When Birch personnel pressed the matter further, and asked specifically about the Customer Choice Protection plan, SWBT personnel eventually admitted that the customers in question might have this service on their line(s). SWBT, however, would provide no information about what this restriction was and who asked for it to be put on the line.

Once Birch became aware of the CCP option on a line, we attempted to comply with the removal procedures outlined in the March 10 Accessible Letter, but typically met with little success. The SWBT personnel that we contacted were nearly uniformly unfamiliar with the CCP option and the few who were gave us conflicting information regarding how to remove the restriction from a customer's account. Among other things, we were unable to obtain clear information about whether the written request for removal supposedly required by SWBT's procedures could be in the form of a letter or if there was a specific form that SWBT required. When we asked if SWBT would accept the signed letter of authorization ("LOA") giving us the authority to convert the customer, we were told

that the LOA was insufficient. However, SWBT business office personnel could not tell us what would be sufficient.

Our difficulties in reaching SWBT representatives who both could, and were willing to, assist us was due in large part to the fact that SWBT's procedures required us to contact the appropriate local business office in order to obtain removal of the CCP restriction. By forcing us to deal with the retail side of SWBT's operations, SWBT put us at the mercy of a competitor who had no accountability to, or responsibility for, us. Many of the problems that developed with the CCP option could have been avoided if responsibility for removing CCP protection from customer accounts was given to a non-biased group within SWBT.

Confusing matters further, SWBT on occasion accepted—in contravention of its published procedures—verbal requests from the customer to remove CCP from an account. Had SWBT done so consistently, converting customers with CCP on their accounts would have been relatively straight forward. SWBT, however, accepted verbal requests only in some instances, refusing it in others. Moreover, even when a verbal request was accepted, it was often only after a long series of calls to various SWBT offices and in many cases resulted in only a partial removal of the restriction from the customer's account or a removal of the restriction on only the long-distance portion of the account.

The difficulties that Birch and its potential new customers encountered in attempting to remove CCP from customer accounts lead in several instances to the customer becoming frustrated and deciding not to switch to Birch. In one instance, a customer, after having made several unsuccessful attempts to remove the CCP from her account, contacted Birch and informed us that “she was giving up” because switching

providers was “not worth the hassle.” In another instance, after the customer called SWBT to have the restriction removed, the customer’s service was disconnected. While SWBT reinstated service to the customer within 1-2 hours, the customer decided to transfer only its long distance service to Birch because the customer did not want to risk losing local service again. In yet another case, a customer called SWBT and asked that CCP be removed from both her local and long-distance service. The customer’s next bill showed that her primary interexchange carrier had been changed to Birch’s long-distance affiliate, Valu-Line of Kansas, but that SWBT remained her local service provider. The customer contacted Birch saying that she was confused, and had decided not to change her local service provider. Several other customers have also decided not to convert to Birch after encountering difficulties removing CCP from their accounts.

The loss of potential customers for Birch is especially troublesome because not only is the particular customer lost, but the experience also creates negative perceptions of Birch and other CLECs. If customers are left with the impression that it is difficult to switch to a CLEC, it becomes almost impossible to convince them to leave their incumbent provider.

Because it had become obvious that the CCP option was becoming a significant business issue for us, I asked our customer service people to begin keeping a log of customer accounts where we encountered difficulties converting the customer because of the local service freeze. A copy of that inventory, which now includes over 150 customers, is attached hereto as Exhibit 2.

It became apparent during this period that SWBT was not following its own procedures for placing CCP on an account. According to the March 10 Accessible Letter,

the CCP restriction can only be placed on a customer's account at the written request of the customer. However, in many, if not most, cases when Birch contacted a customer after encountering a CCP restriction, the customer had no recollection of requesting the protection in the first instance and was unaware that he or she had it. Few remembered signing an authorization and several were sure that they definitely had not done so. In no instance has SWBT produced a written authorization from a customer who has denied requesting the restriction.

October 1 Birch/SWBT Conference with FCC Staff

After several weeks of attempting with little or no success to convert customers with CCP on their accounts, Birch contacted the Commission regarding SWBT's practices regarding local service restrictions. On October 1, 1998, representatives of Birch and SWBT met with Frank Lamancusa, Chief of the Accelerated Complaint Branch of the Common Carrier Bureau's Enforcement Division and other Commission staff. At that meeting, Birch detailed its continuing difficulties converting customers with CCP restrictions on their account and SWBT's inability to follow its own published procedures.

SWBT denied that there was a problem. In SWBT's view, the difficulties Birch was experiencing in converting customers were exceptional and SWBT's procedures were clear and consistent. SWBT explained that the reason its personnel were accepting some verbal requests for CCP removal was that SWBT had changed its procedures in July, via a second Accessible Letter, to permit verbal removal. SWBT, however, had no explanation for why verbal requests were accepted in some instances but not in others. Birch requested a copy of that Accessible Letter.

Following the conference, SWBT admitted that the July Accessible Letter, for reasons that remain unclear, had never been sent out to CLECs. SWBT had, however, circulated the revised procedures internally. The result was that SWBT's retail operations were aware of the procedures but that Birch and SWBT's other CLEC competitors were not. SWBT promised to release the revised procedures in an Accessible Letter in the near future. SWBT also promised to further revise its CCP procedures to facilitate removal and to train all its personnel in CCP procedures by October 22, 1998. Finally, SWBT promised to investigate 39 specific instances where Birch had been unable to successfully convert a customer with CCP account protection. A follow-up conference call was scheduled for October 8, 1998 to review SWBT's progress.

October 5 Accessible Letter

On October 5, 1998 SWBT finally issued an Accessible Letter revising its CCP procedures, a complete copy of which is attached hereto as Exhibit 3. Under the revised procedures, SWBT would accept either written or verbal requests to both place CCP on an account and to remove it. No details of either the written or verbal procedures were provided.

October 8 Birch/SWBT Conference Call with FCC Staff

On October 8, 1998, Birch, SWBT and FCC staff held a conference call to discuss the status of SWBT's efforts to address Birch's difficulties with CCP removal. SWBT had made little progress. SWBT explained that it had sent out an Accessible Letter to all CLECs which covered the verbal procedures and that Birch should simply follow the procedures outlined in the letter. SWBT maintained that all of Birch's problems were due

to its failure to do so. We detailed several situations where we had followed SWBT's procedures to the letter and still had encountered difficulties converting a customer. SWBT had no explanation for our problems.

After the call I received a voice mail message from Kathy Proffer at SWBT, extending an offer to work with Birch to get the CCP restriction removed from the 39 problem accounts. I contacted Kathy and she referred me to Donna Herter with SWBT in San Antonio. On Monday, October 12, 1998, Donna called and we discussed how to get the restriction removed from the 39 accounts. Donna asked for some documentation that the customers in question actually wanted our service in the first place. I agreed to send copies of the customers' LOAs and an explanation of our sign-up process for her review. Donna reviewed our forms and told me that if we faxed the executed Birch LOAs to Chuck Denton in the Kansas City office of SWBT, he would get the restrictions removed. On October 13, 1998, I spoke to Chuck and faxed him the forms. It should be noted that the acceptance of the LOAs was a departure from the procedures specified in the March 10 Accessible Letter and from SWBT's prior practice.

On October 16, 1998, Chuck and Donna called to advise me that they had not been aware that Birch's list of 39 problem accounts included business accounts, though Birch had previously made this clear. Chuck said that he was with SWBT's residential operations and could not handle business accounts. He said he would pass them on to someone who could. He reported that some of the restrictions had been lifted, but that it might take a few more days for the removal orders to appear in the customers' records. Apparently, in several cases the order to remove the CCP restriction had been entered

while the customer's account was in the process of being billed. According to SWBT, the restriction could not be removed during the billing process, leading to delays of up to a week.

During our call on October 12, Donna and I had also discussed what procedures Birch should use in the future to obtain removal of CCP from a customer account. She said that going-forward SWBT would not accept our LOAs. Donna told me that Birch should instruct our customers to call SWBT directly. I explained that our customers had been doing so but were having little success in getting the restrictions lifted. Donna said that if a customer had problems dealing with SWBT directly, they could involve Birch in the process. Donna said that she would get names and numbers of specific people at SWBT that would help us on a temporary basis. Again, the direct customer calls were inconsistent with SWBT's then-current procedures, which specified that requests for CCP removal had to be in writing. However, to the extent that having customers call SWBT directly would facilitate the customer's conversion to Birch, we were willing to try the procedures that Donna recommended.

Following our conversation, Donna sent me a fax once again changing SWBT's CCP removal procedures. The fax stated, among other things, that "if needed" a three-way call could be set-up between the customer, Birch and SWBT to remove CCP from the customer's account beginning October 15, 1998. Donna provided a toll-free number and the names of three SWBT representatives and their extensions for this purpose. On October 15, a Birch employee, Heather Oliver, was able to successfully complete several three-way calls to have the CCP restriction removed from a customer's line. We were optimistic that we were on the way toward solving our problems.

Our experience with the new three-way calling procedure soon soured. On October 19, Heather once again attempted to use SWBT's new three-way call procedures. With a customer on the line, Heather tried to call the 800 number given to us by Donna Herter but got a recording stating that the number had been disconnected. Heather continued to get the same recording all morning. Finally at about 2:00 p.m., the number rang but it was answered by an automated attendant. When she dialed the extensions for the residential help people, she got their voice mail. The entire, ultimately unsuccessful, process took several minutes. During that time, the customer remained on the line with Heather.

Later that day, Heather eventually was able to make one successful three-way call. The customer in question, however, had both residential and business service and the SWBT representative Heather and the customer talked to could only help them with the residential line. The residential representative, Claudia, referred Heather to another SWBT representative, Jenny Rice, for help in removing the business restriction.

That afternoon, Heather notified me of the problems she was having and asked for help. We called Donna Herter and informed her Birch was having no more success with the new three-way call procedures than it had had with written requests and direct customer calls and asked for an explanation. In addition, we explained how frustrated both our customers and we were getting in trying to get the restrictions lifted. We expressed concern that SWBT's procedures did not seem to be working, and that our inability to reach a live SWBT representative when we had a customer on the line with us was particularly troublesome. Donna had no explanation for the disconnection of SWBT's toll-free number. Donna suggested if we reached a representative's voice mail, we leave a voice-mail and that SWBT would call us back. We explained that this was counterproductive

because the whole idea was to have a three-way call and that SWBT could not expect both the end user and ourselves to sit and wait for SWBT to call us back.

We also explained to Donna that we were having problems regarding business accounts but we had no contact at SWBT to help us. Donna agreed to get Birch a contact person for business accounts. Donna advised us not to call Jenny Rice, to whom Heather had been referred, and to wait for her to investigate the issue before calling anyone else. A day later, on Tuesday, October 20, 1998, Donna left me a voice mail providing the name and number of a SWBT representative to call to get business accounts released and said that a three-way call was not necessary. Apparently, for business customers SWBT was willing—again in contravention of its published procedures—to remove CCP from the customer's account at Birch's, rather than the customer's, request.

Later that day, Donna and Christine Jines, SWBT's Director of Federal Regulatory Affairs, called to discuss Birch's problems converting customers with CCP on their accounts. I explained that we continued to have problems with SWBT's removal procedures and that the procedures kept changing. I also reiterated that the underlying problem was that SWBT customers did not know that the CCP restriction was on their accounts. Donna and Christine agreed to investigate three residential accounts and three business accounts to determine how and why the restriction had been put into place.

On October 20, Heather called the residential help line several times and was able to get the customers' CCP restrictions removed using the three-way call process. Our problems, however, resumed the next day when a customer called our offices for assistance in getting her restriction lifted. Heather put the customer on hold and attempted to establish a three-way call with SWBT. Heather called Pat at the help line and explained why she was calling. Pat refused to handle the call, saying that Chuck Denton had

instructed her not to take any more calls unless there was a problem. Heather explained that the customer was holding on the other line and asking for help, but Pat still refused to speak with the customer. Heather ended the call with SWBT and then explained to the customer that she would have to call SWBT herself to try again to have the restriction removed. Upon hearing this, the customer expressed her dissatisfaction with SWBT but told Heather to just “forget” the local service for now and “leave things as they are” as it was “too much of a hassle.” After concluding the call with the customer, Heather called and left a message for Donna Herter. Heather then contacted me and advised me of the situation.

A few minutes later Donna and Christine Jines called Heather. They had not received her voice-mail but had an update on the six accounts we had asked them to investigate. Heather recounted her latest experience and then added me to the call. I told Donna and Christine that the report on the six accounts was not on the top of my list of items to discuss as we had a service-affecting issue that needed to be addressed immediately. I explained that SWBT continued to block our access to new customers and that if it continued to do so, we would have no choice but to pursue a complaint with the FCC. They agreed to investigate the situation and call Heather back.

We also asked why some of the 39 problem accounts sent to Chuck the previous week still had not been taken care of. They agreed to investigate this as well. Then they told us that some of the six customers they were investigating had signed a letter requesting CCP. I asked if they had the letter. They hesitated and then explained that they had not actually seen the letters, but they had been told that SWBT had them on file. I suggested to them that it would be a good idea to see the letter themselves as they might be asked to

produce them. They said they would investigate the situation further and report to us in writing.

Later in the day, Heather called Donna Herter to clarify SWBT's procedures. Donna reversed course once again, directing Birch *not* to use three-way calls. According to Donna, customers must attempt to deal with SWBT themselves and the SWBT contact people provided to us were to be called for escalation purposes only. Donna also advised us that in order to ensure that the SWBT representative would be able to assist the customer, the burden was on the customer to ask to have "Customer Choice Protection" removed from his or her account to specify that they want the restriction lifted from their local service and not just their long-distance service.

October 22 Accessible Letter

On October 22, 1998, SWBT issued a third Accessible Letter further revising its CCP procedures, a complete copy of which is attached hereto as Attachment 4 (the "October 22 Accessible Letter"). The letter confirmed that CCP can be removed by either verbal or written request of the customer. It stated, however, that a verbal request is the "preferred method for having CCP added to or removed" from an account. While written requests to add or remove CCP would be accepted, the letter made clear that SWBT "encourages verbal requests over written requests."

The October 22 Accessible Letter specified two methods to remove CCP from an customer's account, beginning November 2, 1998: (1) verbal three-way calls among the customer, the CLEC and the appropriate retail business office, or (2) a written request using an official CCP Removal Form.

Operation Under the Further Revised Procedures

After the release of the October 22 Accessible Letter, Birch continued to have problems converting customers with the CCP restriction on their account. Many Birch customers reported that they called SWBT to remove the restrictions from their lines only to be told that none existed. When Birch investigated, it found that in many cases the customer's account did in fact show a CCP restriction still in place. In other cases, it took a series of several calls by the customer and Birch personnel to reach a SWBT representative familiar with CCP. Even after reaching the correct personnel, CCP removal continued to be problematic. Often the SWBT representative would state that the CCP would be removed, but no change was made to the status of the customer's account. To make matters worse, the CCP restrictions are on a per-line basis. This means that in order to release the account *all* lines in the account must have the restriction removed. In several cases, Birch has found that all but one line has the restriction removed but, because the one line is still restricted, the entire account remains locked.

It seems that SWBT's implementation of the CCP option was either not thought out at all or thought out very well so as to cause as much frustration as possible for customers and CLECs. Part of the problem appeared to be that many SWBT retail representatives continue to be insufficiently familiar with CCP and its removal. In other cases, it appeared that the retail representatives were simply unwilling to cooperate with a direct competitor.

Near the end of October, Donna Herter and Christine Jines provided us with draft copies of forms that they were working on for CLECs to use in removing CCP and told us SWBT was working to better train their people regarding this issue. By early November, however, Birch had seen very little improvement in the situation. Beginning November 3,

1998, the day following the effective date of the new procedures specified in the October 22 Accessible Letter, Birch began attempting once again to convert customers by three-way conference calls between the customer, Birch, and SWBT. Despite the fact that three-way calls were specified by the October 22 Accessible Letter as the preferred procedure, Birch continued to have little success in removing the CCP restriction from customer accounts.

November 5 Birch/SWBT Conference Call with FCC Staff

On November 5, 1998, Birch participated in another telephone conference call with SWBT and FCC representatives. Birch presented the cases of two customers as typical of its experience with SWBT's revised procedures. In both instances, Birch attempted to place a three-way call to the appropriate SWBT business office to remove CCP from a customer's account. In the first instance, the SWBT representative who took the call was unfamiliar with CCP and its removal, and transferred the call to a representative in a billing support office. While the billing support representative was familiar with CCP and stated that she would remove the restriction from the customer's account, she failed to do so correctly, and the restriction remained on the account. The next day, another call was attempted, again to the business office as specified in SWBT's procedures. Again, the business representative was unfamiliar with CCP and transferred the call to another office. After an exchange of calls with a representative in that office who was familiar with CCP, the representative stated that the restriction would be lifted. The next day, however, when Birch examined the account through SWBT's OSS, while the restriction had in fact been lifted from one line, it appeared for the first time on another line on the same account. Birch and the customer placed a third round of calls to SWBT and ultimately the CCP restriction was removed from all of the lines on the customer's account. This occurred,

however, only after a delay of several days, several rounds of conference calls, and extreme frustration on the part of both Birch and the customer.

In a second instance, the representative who took the call was completely unfamiliar with CCP and the procedures for its removal. He refused to talk to the customer with Birch on the line. The Birch representative read the applicable portions of the October 22 Accessible Letter explaining CCP and specifying that three-way calls were the preferred method for removing CCP from an account. When the SWBT representative continued to refuse to speak with Birch and the customer, the Birch representative asked to speak with a supervisor. The SWBT representative refused access to his supervisor and began berating Birch and the customer. Ultimately, the call was transferred to another SWBT office. The representative there was pleasant, but was unfamiliar with CCP. She left a message for her supervisor to call Birch. According to Birch's records, the call took over 30 minutes. When the supervisor called Birch, she directed us back to the business office we originally contacted. After several additional rounds of calls, the CCP restriction was ultimately removed.

SWBT responded to Birch's accounting of the two incidents by saying that it had only implemented its new three-way calling procedures a few days ago and that, while its representative had been trained "to the best extent possible," the training had been accomplished on a very short timetable. According to SWBT, the procedures were not tested before being put in place.

Continuing Problems After the November 5 Conference Call

As a result of the conference call with SWBT and the FCC on November 5, 1998, Julie Siliven of SWBT and I agreed to work together to try to determine what was causing the problems and what steps could be taken address them. The Monday after the

conference call, Julie came to Kansas City and met with the various SWBT Call Centers to try to determine exactly what was happening. On Wednesday, Julie and I met. Julie explained she had found several aspects of the Kansas City Call Centers' handling of CCP removal that could be improved. Julie admitted during our conversation that the Call Centers did not have a full understanding of what CCP is and how it works. Julie explained that the Accessible Letters sent out to the industry are not sent out internally and that other documents are used for internal notifications. She also explained that at the same time that the verbal procedure for adding and removing the service had been distributed, the Call Centers were in the process of a major reorganization. Julie felt that this may have caused some excess confusion and that, as a result, it appeared that not all SWBT personnel had received their training.

Julie advised me that she had worked with the Call Center supervisors to make sure that they understood the proper procedures. She also advised me that Birch should continue to use the procedures outlined in the October 22 Accessible Letter. Julie was able to provide one central toll-free number for Birch to use when placing three-way calls for business customers. She was unable, however, to provide the same type of central point of contact for residential customers.

While the situation has improved somewhat, Birch continues to encounter difficulties with the specific procedures SWBT has directed Birch to follow. Often, three-way calls do not result in CCP being removed from a customer's account on the first attempt. Birch has found that in many cases SWBT is removing the long-distance restriction and not the local restriction. Where the customer contacts SWBT on his or her own, often the SWBT representative denies that any restriction exists. In some instances, the SWBT representative attempts to retain the customer. Recently, a customer was told

that “SWBT does not like” customers to change their local service provider and was encouraged to remain with SWBT. When using SWBT’s CCP Removal Form, Birch receives no confirmation that the form has been received and no notice as to whether or when the restriction will be removed.

It continues to be Birch’s experience that a majority of the customers with CCP on their account are unaware that the restriction exists and have no recollection of requesting it. This is apparently due to SWBT’s practice of relying on vague oral solicitations. The experience of a Birch employee who called SWBT to request a second line is illustrative. The Birch employee was asked “Would you like at no additional charge, a customer choice protection plan, and that plan just protects your account from unauthorized changes without your written authorization.” Not only is this characterization of CCP sufficiently vague so that a customer would have no idea what they were agreeing to, it also fails to explain that placing CCP on the account may make it more difficult to change service providers when the customer wishes to do so. In addition, no distinction was made between local and long distance service. Finally, it should also be noted that, under SWBT’s current procedures, written authorization is *not* required.

Birch is in the process of scheduling yet another status conference with Commission staff. While Birch continues to prefer an amicable resolution of the situation, it is becoming increasingly obvious that SWBT is unwilling or unable to correct the problems. Birch urges the Commission to act to protect both competitive providers and customers from continued abuses.

while the customer's account was in the process of being billed. According to SWBT, the restriction could not be removed during the billing process, leading to delays of up to a week.

During our call on October 12, Donna and I had also discussed what procedures Birch should use in the future to obtain removal of CCP from a customer account. She said that going-forward SWBT would not accept our LOAs. Donna told me that Birch should instruct our customers to call SWBT directly. I explained that our customers had been doing so but were having little success in getting the restrictions lifted. Donna said that if a customer had problems dealing with SWBT directly, they could involve Birch in the process. Donna said that she would get names and numbers of specific people at SWBT that would help us on a temporary basis. Again, the direct customer calls were inconsistent with SWBT's then-current procedures, which specified that requests for CCP removal must be in writing. However, to the extent that having customers call SWBT directly would facilitate the customer's conversion to Birch, we were willing to try the procedures that Donna recommended.

Following our conversation, Donna sent me a fax once again changing SWBT's CCP removal procedures. The fax stated, among other things, that "if needed" a three-way call could be set-up between the customer, Birch and SWBT to remove CCP from the customer's account beginning October 15, 1998. Donna provided a toll-free number and the names of three SWBT representatives and their extensions for this purpose. On October 15, a Birch employee, Heather Oliver, was able to successfully complete several three-way calls to have the CCP restriction removed from a customer's line. We were optimistic that we were on the way toward solving our problems.

EXHIBIT 1

March 10 Accessible Letter



**Southwestern Bell
Telephone**

**"Notification of Customer Choice Protection - Arkansas, Kansas, Missouri,
Oklahoma, Texas"**

Date: March 10, 1998

Number: LSP98-012

Contact: Southwestern Bell Telephone Account Manager

Unauthorized changes of interLATA long distance providers continue to be a significant and growing problem in Southwestern Bell Telephone's five-state service territory, with a 50 percent increase in 1997 to 558,000 total complaints. As a result, Southwestern Bell Telephone has programs, policies and procedures in place to address long distance provider slamming. Southwestern Bell Telephone offers customers the opportunity to protect their interLATA long-distance provider from being changed without their written consent and continues its "Hang Up On Slamming" educational initiative.

Given today's environment, with additional choices in local service providers and in the future with intraLATA long distance providers, there is increased customer concern regarding slamming. Customers want not only to choose their telecommunications providers, but also to have the ability to protect those choices. On March 18th, Southwestern Bell Telephone will offer the Customer Choice Protection option to customers who want to protect their interLATA and/or local service providers from being changed without their written consent.

Please note that customers who claim unauthorized changes in interLATA providers will continue to be handled by existing procedures. An overview is included to answer any questions you may have regarding the Customer Choice Protection option. If you have additional questions, or want to offer Customer Choice Protection to your customers, please contact your account manager.

Southwestern Bell Telephone believes our continuing "Hang Up On Slamming" educational campaign and optional Customer Choice Protection will give protection to customers from the fraudulent practice of switching interLATA and/or local service from their preferred telecommunications company without their consent. Our hope is that all telecommunications companies will follow our lead and provide every customer with the ability, if the customer so chooses, to protect their choice of telecommunications providers.

LOCAL SERVICE PROVIDER PROTECTION - RSCP FID

A new option is being made available to end users to voluntarily prevent their local service provider from being changed.

The end user may, if they choose, provide written authorization to their current provider to place an indicator on their account to prohibit any change in local service provider.

Once the account has been marked for protection with the RSCP FID, no other provider may convert the account without the end user's written authorization to the current provider to remove the indicator. The indicator must be removed by the current local service provider prior to the account being converted to another local service provider.

Once the indicator has been removed, the account may be converted by another provider.

PROVIDER CONTACT FLOW

PROVIDER - If a provider initiates an EASE request to convert an account and the RSCP FID is present on the account, then EASE will error the CLEC Service Representative back to the initial EASE entry screen with an error message to indicate the account is protected and cannot be converted.

The EASE error message will read:

**E02155 - ACCOUNT CAN'T BE CONVERTED - CONTACT
CURRENT PROVIDER TO REMOVE RSCP FID**

The provider Service Representative should advise the end user:

- The account is protected.
- End user must contact the current provider to request removal of the indicator. This request must be in writing.
- The account cannot be converted until the indicator has been removed by the current provider.

LSC - If the LSC receives a manual request to convert an account and the RSCP FID is present on the account, then EASE will error the LSC Service Representative back to the initial EASE entry screen with an error message to indicate the account is protected and cannot be converted.

- LSC Service Representative will refer the request back to the provider (manual FOC) and advise the account is protected.

i.e., ORDER CANCELLED - RSCP

Disputes - Disputes regarding a protected account should be settled between the providers and the end user. LSC will not become involved.

LOCAL SERVICE PROVIDER PROTECTION - RSCP FID

Business Rules -

- The FID may only be placed on an account by the current provider of the account, at the written request of the end user.
- Once the FID is placed on the account, the account cannot be converted to another provider.
- The FID must be removed at the written request of the end user by the current account provider prior to a conversion order being placed on the account by a new provider.

Programming -

- The FID has been referred to EDI /LEX/LAZR for systems programming. Prior to programming, any requests to place or remove the FID will have to be processed manually. Any requests to convert an account where the FID is present will have to be manually refused.
- EASE will support RSCP effective with implementation.

Additional Information -

For additional information or to begin using this program, contact your local SWB account manager.

EXHIBIT 2

Inventory of Birch Customers With CCP Problems

**POTENTIAL BIRCH CUSTOMERS WITH PROBLEMS RELATING TO "CUSTOMER CHOICE
PROTECTION" RESTRICTIONS**

Customer

1. Kelly contacted us on September 8, 1998 to switch her service to Birch. We talked to Kelly on Sept 15, 1998 and she said that they did not sign anything restricting their account. On September 17, 1998 Kelly called to have the restriction removed. The restriction was not removed so Kelly called again and at that time SWBT told her she would have to disconnect her number with them and re-connect, with a new number, with Birch. Kelly called us to find out if that was true. On October 7, 1998 we placed a conference call with SWBT, Kelly and Birch, at which time we found out that a "C" order was placed and it should have been an "R", which is why the restriction was not removed. We then requested to speak to a supervisor and were told that was not possible. Later in the day a supervisor (Mrs. Sidel?) called and told us that SWBT could not remove the restriction because it is in the middle of processing the billing cycle. We had to wait a couple of days and see if the restriction was removed. When asked if we could call the supervisor back if the restriction was not removed, she said no because there was nothing further she could do for us and referred us to the LSP Service Center. Restriction was lifted on October 9, 1998.

2. The company contacted us on September 2, 1998 to switch their service to Birch. Talked to Velda on Friday Sept. 11, 1998. She said that she signed a SWBT form and would fax me a copy of it. Velda called SWBT (800-890-8170) on September 8, 1998 and talked to a person named Mary. Mary said she would have the restriction removed. Because the restriction was not removed with verbal notification, Velda faxed the request to remove the restriction. Restriction was lifted on October 1, 1998.

3. In early August 1998, Stacy contacted us about switching her service to Birch. On August 10, 1998, Stacy said she did not sign any agreement with SWBT for restriction on service. As of August 10, 1998, Stacy had not yet contacted SWBT. On September 25, 1998, after trying to deal with SWBT, Stacey contacted us and said that she was "giving up – Not worth the hassle".

4. On September 2, 1998 Shana contacted us to switch her service. The restriction was lifted on Sept. 18, 1998

5. Natasha contacted us on August 10, 1998 to switch her service to Birch. When we talked to Natasha on Sept 16, 1998 she said that she did not sign anything with SWBT and does not remember anything about a restriction. The restriction was lifted on October 6, 1998.

6. On August 5, 1998, Vicky contacted us to switch her service. The restriction was lifted on October 2, 1998

7. Mr. Davidson said, on August 24, 1998, he would call SWBT to have the restriction removed. Restriction was lifted October 9, 1998.

8. On August 28, 1998, Cam contacted us to switch his service to Birch. Cam said that he did sign a form to put the restriction on his line. On Friday, September 11, 1998, he called SWBT to have it removed. SWBT indicated that the restriction should be removed by September 29, 1998. On September 30, 1998 the restriction had not yet been removed. The restriction was lifted on October 1, 1998.

9. Duane said he never signed anything from SWBT restricting his service. Duane called SWBT, on September 9, 1998 and asked to have the restriction removed. The restriction was lifted on September 10, 1998.

10. On September 1, 1998, Korey contacted us to switch his service. The restriction was lifted October 9, 1998.

11. Peggy, from the company, called SWBT to have the restriction removed. SWBT indicated they would remove the restriction but also disconnected her service. After being without service for 1-2 hours, the company now has service and has decided to only transfer their long distance at this time. The company does not want to transfer their local service now because does not want to chance losing service again.
12. Ms Doyle contacted us on August 24, 1998 about switching her service. On Sept. 24, 1998 the restriction was lifted from her phone, but first SWBT disconnected her line, so she had to call and get it reconnected. Ms. Doyle was without service for an afternoon
13. John contacted us on September 4, 1998 to switch his service to Birch. John said he did not sign anything from SWBT restricting his service. He called SWBT, on October 5, 1998, and they said they would remove the restriction. Restriction was lifted October 6, 1998.
14. Mr. Morgan contacted us on August 26, 1998 to have his service switched. The restriction was lifted on October 16, 1998.
15. Ms. Charles contacted us on July 31, 1998 to switch her service. The restriction was lifted on October 14, 1998.
16. Mr. Thompson contacted us on July 21, 1998 to switch his service. The restriction was lifted on October 19, 1998.
17. Mary contacted us on June 22, 1998 to switch her service to Birch. Mary says she signed the SWBT form. Mary called SWBT in June and asked for the restriction to be lifted. Mary's bill from SWBT shows the P.I.C was changed on July 17, 1998 to VLK (Valu-Line of Kansas) but the local restriction is still in force on the account. Customer is confused. Customer is getting married, and has decided not to convert at this time.
18. The company contacted us on September 9, 1998 to switch their service to Birch. Peggy, at the company, was not aware of the restriction on the line. She is going to call SWBT and then let us know what they say. Peggy called to say that the SWBT said the restriction would be lifted on October 1, 1998. Restriction was lifted on October 2, 1998.
19. Ms. Allacher contacted us on September 11, 1998 to get her service switched and is getting frustrated. She says that she has filed two apps with Birch and we need to hurry up and convert her. Our representative called her again to explain that the slow down is not on Birch's side but with the restriction from SWBT. The restriction was lifted on October 19, 1998.
20. Kelli contacted us in early August about having her service switched to Birch. On August 17, 1998 we contacted Kelli and she said she would call SWBT to have the restriction removed. The restriction was lifted on October 14, 1998.
21. The Morgans contacted us on September 8, 1998 to have their service switch to Birch. Talked to the Morgans on Sept. 15, 1998. They had signed a letter but called SWBT to have the restriction removed two weeks ago. The restriction was not removed and the customer called again. The restriction finally was lifted on September 29, 1998.
22. The company contacted us on May 26, 1998 to get their service transferred to Birch. Per a telephone call to Donna at SWBT on October 21, 1998, this is not SWBT's customer and therefore they can not remove the restriction. Dana, at the company, reviewed their bill and it was sent from SWBT. Contacted SWBT and they said we had not sent the correct number (we had the correct number on the long distance ticket, asking that it be included). SWBT called back and gave us an R number to have the restriction removed. The restriction was lifted on October 23, 1998.

23. The complex contacted us on July 16, 1998 to have their service switched to Birch. Two of the seven (7) lines at the complex have restrictions on them. The complex has no knowledge as to why the restriction is there. The restrictions were lifted October 2, 1998.

24. On September 14, 1998, Michael contacted us about switching his service to us. The restriction was lifted on October 16, 1998.

25. Starting September 22, 1998, Ms. Gordon and Birch were going around with SWBT about having the restriction removed. SWBT would indicate that it is removed but Birch still did not have access. Then we would be informed that Ms. Gordon had a long distance restriction, was a new customer and due to the fact that she had not been billed yet, the restriction would not be lifted. The restriction was lifted on Sept. 29, 1998.

26. On September 23, 1998, Mr. Williams contacted us about switching his service to Birch. On October 1, 1998, Mr. Williams and Birch had a conference call with SWBT. SWBT indicated that there was no restriction on Mr. Williams' account. Birch attempted to convert again. Mr. Williams and Birch called SWBT on October 5, 1998 and after being transferred a couple times Linda helped us. Linda found the restriction and said she would put in an order to have the restriction removed. The restriction was lifted on October 6, 1998.

27. Vanessa contacted us on September 23, 1998 to have her service switched to Birch. Vanessa said that she had not signed anything to restrict her service. When Vanessa called SWBT, they told her that the restriction was only on her long distance and not to remove it so that no other long distance carrier could change her carrier. Vanessa called SWBT again and they said that they did not know what she was talking about. Birch and Vanessa had a conference call with SWBT on Monday, October 5, 1998. The restriction was lifted on October 9, 1998.

28. Mary contacted us on September 23, 1998 to have her service switched to us. The restriction was lifted on October 6, 1998.

29. The center contacted us on September 17, 1998 to switch their service to Birch. On October 5, 1998, Dean, at the center, said he would call SWBT to have the restriction removed. The restriction was lifted on October 15, 1998.

30. Mr. Repp contacted us on September 24, 1998 to have his service switched to Birch. Mr. Repp said he would call SWBT about having the restriction removed and let Birch know what SWBT said. SWBT said they would remove the restriction on October 2, 1998. The restriction was lifted on October 5, 1998.

31. The company contacted us on September 21, 1998 to have their service switched to us. The restriction was lifted on September 30, 1998

32. The company contacted us on September 21, 1998 to switch their service to Birch. On October 5, 1998, Shawn, at the company, said he would call SWBT to have the restriction removed. The restriction was lifted on October 19, 1998.

33. The company contacted us on September 21, 1998 to switch their service to Birch. The company did not know if they had signed anything to restrict their service. They called SWBT to have the restriction removed. The company called Birch back on October 1, 1998 to say that SWBT had removed the restriction. We attempted to convert again on October 2, 1998. The restriction was lifted around October 9, 1998.

34. The clinic contacted us on September 23, 1998 to switch their service to Birch. Nancy, at the clinic, said they had requested that the restriction be removed. She would call again and get the name of whom she talks to & the date it should be removed. The restriction was lifted on September 30, 1998

35. Ms. Barnett contacted us on September 28, 1998 to have her service switched to Birch and said that she had not signed anything to restrict her service. She called SWBT and was told that "they will release it right away". As of Friday, October 2, 1998 the restriction was still not removed. Birch and Ms. Barnett had a conference call with SWBT and found out that the work order on SWBT's side was entered wrong. SWBT said they would have the restriction removed immediately. Restriction was lifted on October 5, 1998.
36. On September 28, 1998, Steve contacted us about switching his phone service to us. The restriction was lifted on October 15, 1998.
37. Ms. Dozier contacted us on September 28, 1998 to have her service switched to Birch. On September 30, 1998, Ms. Dozier said that she had not signed anything to restrict her service. She would call SWBT to have the restriction removed and keep us informed. The restriction was lifted on October 13, 1998
38. On September 29, 1998 Randy contacted us about switching his phone to us. The restriction was lifted on October 7, 1998
39. On September 29, 1998 the Baileys contacted us to switch their service to Birch. The Baileys called SWBT to have them remove the restriction. When they called, SWBT offered them a deal if they would stay with SWBT. The Baileys have converted their long distance but will wait to convert their local until after the "deal" is over. Ms. Bailey called back on October 2, 1998 and said the "deal" she got was the monthly deal with VM, caller ID, etc. Last week when she called she indicated that she was going to get a cash gift certificate for approximately \$50 to use anywhere. The Bailey's want to wait until their first bill comes to see if the certificate is in it and will proceed from there. Ms. Bailey called on October 19, 1998 and said that they are now ready to transfer their local service. Heather Oliver confirmed that they want Birch to carry both the Bailey's local and long distance service. The restriction was lifted on October 20, 1998.
40. Lynn contacted us on September 30, 1998 to switch her phone service to us. The restriction was lifted on October 19, 1998.
41. David contacted us on September 30, 1998 to have his phone service switched to us. The restriction was lifted on October 14, 1998.
42. The company contacted us on September 30, 1998 to have their service switched to Birch. Warnet, at the company, said he would call SWBT to have the restriction removed and keep us informed. The restriction was lifted on October 20, 1998.
43. Customer contacted us on September 30, 1998 to switch his service to us. The restriction was lifted on October 19, 1998.
44. The company contacted us on October 1, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.
45. The company contacted us on October 2, 1998 to switch their service to us. The restriction was lifted on October 13, 1998.
46. The company contacted us on October 2, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.
47. Sherry contacted us on October 2, 1998 to switch her service to us. The restriction was lifted on October 14, 1998.
48. Bill contacted us on October 2, 1998 to switch his service to us. The restriction was lifted on October 19, 1998.

49. The company contacted us on October 5, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.

50. The company contacted us on October 5, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.

51. The company contacted us on October 5, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.

52. The company contacted us on October 5, 1998 to have their service switched to Birch. Jeff, at the company, said he had contacted SWBT about having the restriction lifted and is about to give up on the transfer. Jeff will call back when he has time and Birch will have a conference call with him and SWBT to have the restriction removed. The restriction was lifted on October 19, 1998.

53. On October 5, 1998 Norm, at the company, contacted us about switching their service and said he would call SWBT to have the restriction removed. Restriction was lifted on October 8, 1998.

54. Carolyn contacted us on October 5, 1998 to have her service switched to us. The restriction was lifted on October 14, 1998.

55. The company contacted us on October 6, 1998 to have their service switched to us. The restriction lifted October 9, 1998.

56. The city contacted us on October 7, 1998 to switch its service to us. The restriction was lifted October 9, 1998.

57. The company contacted us on October 7, 1998 to switch its service to us. The restriction was lifted on October 19, 1998.

58. The company contacted us on October 7, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.

59. The company contacted us on October 9, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.

60. The company contacted us on October 9, 1998 to switch their service to us. The restriction was lifted on October 19, 1998.

61. Tim contacted us on October 9, 1998 to switch his service to us. The restriction was lifted on October 14, 1998.

62. The company contacted us on October 13, 1998 to switch their service to Birch. On October 16, 1998, Vermelle, from the Company, and Birch made a conference call with SWBT. Called Claudia at SWBT and she gave us an R number but then informed us that she did not handle business lines. The name Claudia gave us to call was Jenny Rice (816-672-7024), who was not on our list to contact. The client was very frustrated and called the KCC. At the KCC, Vermelle talked to Jay Hostettler and filed a complaint. Jay said he would expedite the complaint. On October 21, 1998, we received R numbers from Gloria at SWBT to have the restrictions removed. The restriction was lifted on October 22, 1998.

63. Gina contacted us on October 13, 1998 to have their service switched to Birch. Gina did not remember ever signing anything to restrict her account or SWBT asking her if she wanted it restricted. When they moved Trent told SWBT to keep everything the same. We had a conference call with SWBT and they gave us an R number to have the restriction removed. The restriction was lifted on October 19, 1998.

64. Nick contacted us on October 13, 1998 to switch his service to us. The restriction was lifted on October 14, 1998

65. Byron contacted us on October 13, 1998 to switch his service to us. The restriction was lifted on December 2, 1998.

66. Robert contacted us on October 14, 1998 to have his service switched to Birch. He was not aware of any restrictions being placed on his line. Called SWBT on October 20, 1998 and got an R number to have the restrictions removed. The restriction was lifted on October 21, 1998.

67. The company contacted us on October 14, 1998 to have their service switched to Birch. SWBT was called on October 21, 1998 to have the restriction removed and they issued an R number for the order. The restriction was lifted on October 23, 1998.

68. John contacted us on October 15, 1998 to have his service switched to Birch. He said that he did not know there was a restriction on his line and does not remember signing anything to put the restriction on the line. John will call SWBT to have the restriction removed. The restriction was lifted on October 22, 1998.

69. The company contacted us on October 15, 1998 to switch their service to Birch. Mary, from the company, will call SWBT to have the restriction removed. The restriction was lifted on October 28, 1998.

70. Larry contacted us on October 15, 1998, to switch his service to us. The restriction was lifted on October 19, 1998.

71. Mike contacted us on October 16, 1998 to switch his service to Birch. He said that he never signed anything and does not remember agreeing to anything to restrict his service. Called SWBT on October 20, 1998 and got an R number to have the restriction removed. The restriction was lifted on October 21, 1998.

72. The company contacted us on October 16, 1998 to have their service switched to Birch. Lisa, from the company, said she would call SWBT to have the restriction removed. SWBT told Lisa that she has to sign a release. As of October 27, 1998, Lisa is waiting to receive it in the mail. The restriction was lifted on October 28, 1998.

73. Company contacted us on October 16, 1998 to switch their service to us. The restriction was lifted on October 27, 1998.

74. The company contacted us on October 16, 1998 to switch their service to Birch. We called SWBT on October 20, 1998 to have the restriction removed and they gave us R numbers. The restriction was lifted on October 21, 1998.

75. Bonnie contacted us on October 19, 1998 to switch her service to Birch. Bonnie called SWBT to have the restriction removed and got an R number from Todd. We called to verify the restriction was being removed and were told that Todd's R number was to put the restriction on. We then received an R number from Claudia to remove the restriction. The restriction was lifted on October 28, 1998.

76. Tiffany contacted us on October 19, 1998 to switch her service to Birch. Tiffany contacted Rosa at SWBT, on October 21, 1998, and requested that the restriction be removed. The restriction was lifted on October 22, 1998.

77. The company contacted us on October 19, 1998 to have their service switched to Birch. Dean, from the company, said he would call SWBT to have the restriction removed. The company is moving and will wait until after they move to convert to Birch. As of October 28, 1998, customer had changed their mind again and will convert to Birch now. James called SWBT to have the restriction removed. The restriction was lifted on October 29, 1998.

78. The company contacted us on October 19, 1998 to switch to our service. Will call SWBT to have the restriction removed. The restriction was lifted on October 22, 1998.

79. The company contacted us on October 2, 1998 to switch their service to us. The restriction was lifted on October 22, 1998.

80. The company contacted us on October 19, 1998 to switch their service to us. The restriction was lifted on October 22, 1998.

81. Michael contacted us on October 20, 1998 to switch his service to us. The restriction was lifted on November 3, 1998.

82. Blair contacted us on October 20, 1998 to switch her service to us. The restriction was lifted on October 27, 1998.

83. Jon contacted us on October 20, 1998 to have their service switched to Birch. Jon called SWBT on October 21, 1998, to have the restriction removed from their home. SWBT told Jon that they did not show a restriction. Birch called Claudia at SWBT who found the restriction and put in an R order to remove the restriction. The restriction was lifted on October 22, 1998.

84. The company contacted us on October 20, 1998 to switch their service to Birch. Tammy, at the company, will call SWBT to have the restriction removed. SWBT sent Tammy a release to sign. She signed the release and sent it back to SWBT on October 27, 1998. On November 4, 1998, Tammy and Birch called SWBT to have the restriction removed. Dan, from SWBT, answered the call and said he did not know what Customer Choice Protection was and that we had called the wrong number. When asked to speak with Dan's supervisor, on numerous occasions (5), Dan refused to get his supervisor. Dan then transferred us to Loraina who said that the business office removes the restrictions. We tried to explain that the business office transferred us to her. We then asked to speak to Loraina's supervisor but she could not find her supervisor, Melanie Temple. Loraina said she would tell Melanie to call us. This took at least 30 minutes. Melanie left us a voice message saying that the business office should handle these matters. We left another message asking her to call us back. On November 5, 1998 Tammy and Birch called SWBT again to have the restriction removed. Karen answered and told us that an order had already been placed when we called earlier that morning. We assured her that neither of us had called earlier in the day, so she put us on hold and went to check. Karen came back and said the order had posted at noon on that day and the restriction was removed. Karen gave us an R number for reference. The restriction was lifted on November 6, 1998.

85. The Reverend contacted us on October 21, 1998 to switch his service to us. The Reverend called SWBT to have the restriction removed and was informed that his account could not be changed without the password. The Reverend did not know there is a password on his account. He thinks the pastor before him put the password on. The Reverend tried to locate the password but as of November 3, 1998, still had not found anyone who knew the password. He was unable to locate the password; therefore, he has decided not to convert at this time.

86. Ewanda contacted us on October 21, 1998 to switch her service to Birch. Ewanda called SWBT on October 21, 1998 to have the restriction removed. Ewanda and Birch called Claudia at SWBT and left a voice mail to have the restriction removed. The restriction was lifted on November 4, 1998.

87. The company contacted us on October 22, 1998 to switch to our service. Randy, from the company, will call SWBT to have the restriction removed. The restriction was lifted on October 28, 1998.

88. The company contacted us on October 22, 1998 to switch to our service. Randy, from the company, will call SWBT to have the restriction removed. The restriction was lifted on October 28, 1998.

89. Jennifer contacted us on October 23, 1998 to switch her service to us. The restriction was lifted on October 29, 1998.
90. Nancy contacted us on October 23, 1998 to switch her service to us. Nancy will call SWBT to have the restriction removed. SWBT only removed the restriction on LD and not LS. The restriction was lifted on November 19, 1998.
91. Richard contacted us on October 23, 1998 to switch to our service. Richard will call SWBT to have the restriction removed from both the business account and the residential account. The restriction was lifted on October 28, 1998.
92. Richard, from the company, contacted us on October 23, 1998 to switch the company's service to us. Per Gloria at SWBT, the three business lines are currently in a billing cycle and therefore will have to wait to be converted. The restriction was lifted on November 2, 1998.
93. The company contacted us on October 27, 1998 to switch its service to us. This line is currently in a billing cycle; therefore will have to wait to be converted. The restriction was lifted on October 29, 1998.
94. On October 27, 1998, Kathy, from the company, contacted us to switch their service to us. Kathy called SWBT to have the restriction removed. SWBT told her she had to sign a release. Kathy has signed the release and faxed it back to SWBT. The restriction was lifted on October 28, 1998.
95. Susan called SWBT on October 27, 1998 to have the restriction removed. The restriction was lifted on October 30, 1998.
96. The company contacted us on October 27, 1998 to switch their service to Birch. Kurt, at the company, remember the restriction. Kurt called SWBT to have the restriction removed. On November 10, 1998 we talked to Karen at the company because the restriction was not removed. She said Kurt is very busy and will see if she can call for him. The restriction was lifted on December 4, 1998.
97. The Adams contacted us on October 27, 1998 to switch their service to Birch. They do not remember putting the restriction on the account. They called SWBT on October 27, 1998 to have it removed. The restriction was lifted on November 18, 1998.
98. Mark contacted us on October 27, 1998 to switch his service to us. The restriction was lifted on December 2, 1998.
99. Tammy contacted us on October 28, 1998 to switch her service to Birch. On November 5, 1998 Tammy and Birch called SWBT at 800-585-7928, the number we were told to call earlier in the day. Diane answered and tried to tell us we had called the wrong number, so we told her this is the number we were given to call. After placing us on hold for a long time she returned with an R number to have the restriction removed. The restriction was lifted on November 9, 1998.
100. J.J. contacted us on October 28, 1998 to switch his service to us. J.J. said he would call SWBT to have the restriction removed. The restriction was lifted on October 29, 1998.
101. Barbara contacted us on October 29, 1998 to switch her service to us.
102. Michelle contacted us on October 29, 1998 to switch her service to us. Michelle called SWBT to have the restriction removed. The restriction was lifted on November 2, 1998.

103. The company contacted us on October 29, 1998 to switch their service to Birch. Betty, at the company, called SWBT to have the restriction removed. Heath, from the company, and Birch called SWBT about having the restriction removed and were put on hold for nine minutes. Heath said he was going to call the KCC regarding all the problems he has been having. Called Valerie at SWBT on November 5, 1998 and she said we had the wrong dept and forwarded us to Kay. Kay gave us two R numbers to remove the restriction from both of the company's numbers. Kay said to call 800-890-8170 for business and 800-585-7928 for residential, from now on to remove restrictions. The restriction was lifted on November 10, 1998.

104. The company contacted us on October 29, 1998 to switch their service to Birch. Susie, from the company, called SWBT to have the restriction removed. Susie then faxed in the signed release to have the restriction removed. On November 4, 1998, Susie and Birch conference called SWBT and talked to Nina to have the restriction removed and she gave us an R number to have the restriction removed. The restriction was lifted on November 5, 1998

105. Michelle contacted us on October 30, 1998 to have their service switched to Birch and said she would call SWBT to have the restriction removed. Michelle called Birch on November 5, 1998 to let us know that she was having problems with SWBT and getting the restriction removed. Michelle had called on Tuesday and SWBT told her they could not help her. She called again on Wednesday and was told the restriction was removed. Then when she called today (11/5) SWBT said the restriction would be removed. On Tuesday and again today when she called SWBT they told her that they do not like people changing their local service but changing their long distance was fine. The restriction was lifted on November 9, 1998.

106. The company contacted us on October 30, 1998 to switch their service to Birch. Dennis, from the company, called SWBT to have the restriction removed. Client decided it is not worth the trouble and does not want to convert.

107. The company contacted us on October 30, 1998 to switch to our service. Doug, from the company, called SWBT to have the restriction removed. The restriction was lifted on November 2, 1998.

108. John contacted us on October 30, 1998 to switch his service to us. John called SWBT to have the restriction removed. The restriction was lifted on November 4, 1998.

109. The company contacted us on November 2, 1998 to switch their service to us. The restriction was lifted on November 27, 1998.

110. Walter contacted us on November 3, 1998 to switch his service to us. Walter will call SWBT to have the restriction removed.

111. The company contacted us on November 3, 1998 to switch their service to Birch. Raymond, from the company, called SWBT to have the restriction removed. SWBT said the accounts were now with Feist Telephone Company. We called Feist and talked to Lisa about having the restriction removed and then conferenced in SWBT. Veronica at SWBT said there were no restriction so we conferenced in Raymond from the company. When we gave Veronica the telephone numbers she found that they were still SWBT lines and not Feist lines so she gave us R numbers to have the restrictions removed. The restriction was lifted on November 11, 1998.

112. The company contacted us on November 5, 1998 to switch their service to Birch. The restriction was lifted on November 16 1998.

113. James contacted us on November 6, 1998 to switch his service to Birch. We faxed in the request to remove restriction on November 12, 1998. The restriction was lifted on November 16, 1998.

114. Tim contacted us on November 6, 1998 to switch his service to us. The restriction was lifted on November 27, 1998.

115. The company contacted us on November 9, 1998 to switch to our service. Suzanne will call SWBT to have the restriction removed.

116. Jody contacted us on November 9, 1998 to switch to our service. The restriction was lifted on November 12, 1998.

117. Louis contacted us on November 9, 1998 to switch his service to us. The restriction was lifted on November 27, 1998.

118. Spencer contacted us on November 9, 1998 to switch his service to us. The restriction was lifted on November 12, 1998.

119. Eric contacted us on November 9, 1998 to switch his service to us. Talked to Patty, Eric's wife, and she will have Eric call to remove the restriction.

120. The company contacted us on November 9, 1998 to switch their service to Birch. Chrissy, from the company, called SWBT to have the restrictions removed. They were aware of the restriction. The restriction was lifted on November 11, 1998.

121. The company contacted us on November 12, 1998 to switch their service to us. The restriction was lifted on December 2, 1998.

122. The company contacted us on November 12, 1998 to switch their service to us. The restriction was removed on November 20, 1998.

123. Bryon contacted us on November 12, 1998 to switch their service to us. The restriction was lifted on December 2, 1998.

124. Kay contacted us on November 12, 1998 to switch her service to us. The restriction was lifted on November 27, 1998.

125. The company contacted us on November 12, 1998 to switch their service to us. The restriction was lifted on November 23, 1998.

126. The company contacted us on November 13, 1998 to switch their service to us.

127. The school contacted us on November 13, 1998 to switch their service to us. We faxed the request to remove the restriction to SWBT on November 30, 1998.

128. The company contacted us on November 13, 1998 to switch their service to us. The restriction was lifted on November 27, 1998.

129. The company contacted us on November 13, 1998 to switch their service to us. The restriction was lifted on November 27, 1998.

130. David contacted us on November 13, 1998 to switch his service to us. SWBT removed the restriction from LD but not LS. The restriction was lifted on November 20, 1998.

131. Wayne contacted us on November 13, 1998 to switch his service to us. The restriction was lifted on November 24, 1998.

132. The company contacted us on November 16, 1998 to switch their service to us. The restriction was lifted on November 23, 1998.

133. Richard contacted us on November 16, 1998 to switch his service to us. The restriction was lifted on November 27, 1998.

134. Chris contacted us on November 16, 1998 to switch his service to us. The restriction was lifted on December 4, 1998.

135. Gary contacted us on November 16, 1998 to switch his service to us. The restriction was lifted on November 19, 1998.

136. The company contacted us on November 17, 1998 to switch their service to us. The restriction was lifted on December 2, 1998.

137. The company contacted us on November 17, 1998 to switch their service to us. The restriction was lifted on December 2, 1998.

138. Jackie contacted us on November 17, 1998 to switch their service to us.

139. Brian contacted us on November 17, 1998 to switch his service to us. The restriction was lifted on December 1, 1998.

140. Jon contacted us on November 18, 1998 to switch his service to us.

141. Ryan contacted us on November 18, 1998 to switch their service to us. The restriction was lifted on December 2, 1998.

142. Jason contacted us on November 24, 1998 to switch his service to us. The restriction was lifted on December 7, 1998.

143. The company contacted us on November 23, 1998 to switch their service to us.

144. The company contacted us on November 16, 1998 to switch their service to us.

145. The company contacted us on November 21, 1998 to switch their service to us.

146. The company contacted us on November 24, 1998 to switch their service to us.

147. Peggy contacted us on November 24, 1998 to switch her service to us.

148. David contacted us on November 25, 1998 to switch his service to us. We called SWBT on December 4, 1998 to have the restriction removed. The restriction was lifted on December 7, 1998.

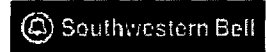
149. Mr. Peres contacted us on November 25, 1998 to switch his service to Birch. On December 3, 1998 we faxed the request to remove the restriction to SWBT. The restriction was lifted on December 7, 1998.

150. The company contacted us on November 27, 1998 to switch their service to Birch. On December 3, 1998 we faxed the request to remove the restriction to SWBT. The restriction was lifted on December 4, 1998.

EXHIBIT 3

October 5 Accessible Letter

Accessible



CUSTOMER CHOICE PROTECTION PROGRAM - RSCP FID APPLICATION

Date: October 5, 1998

Number: CLEC98-080

Contact: Southwestern Bell Telephone Account Manager

This letter is to clarify existing business rules related to the Customer Choice Protection (CCP) and a recent change (July 1, 1998) in RSCP FID application.

The request for addition or removal of CCP from an account by the end user may be either verbal or written. Likewise, the local service request from the CLEC to the Southwestern Bell Telephone Company (SWBT) Local Service Center (LSC) may be either verbal or written.

Attached is a copy of the business rules guideline reflecting the current CCP program.

Questions may be referred to your SWBT Account Manager.

Customer Choice Protection is a program available to local exchange service end users to protect their account(s) from being changed to an alternate local service provider. It is available to SWBT retail end users and CLEC end users on an equal basis, at the end user's request.

The end user **must provide authorization** (either verbal or written) to the current provider of record to place an indicator on the end user account to prohibit any change in local service provider.

- Once the account has been marked, no other provider may convert the account.

If the end user wants to move to another provider, the end user **must provide authorization** (either verbal or written) to the current provider of record to remove the indicator. The indicator must be removed by the current local service provider prior to the account being converted to another local service provider.

- Once the indicator has been removed, the account may be converted by another provider.

Reseller/Local Service Provider Change Prohibited (RSCP FID) is placed on the account to suppress any changes in local service provider; the FID must be removed prior to a change in provider taking place.

CONTACT FLOW

End User

End user requests (either verbal or written) current provider of record to add or remove RSCP.

PROVIDER

Current provider of record requests (either verbal or written) SWBT LSC to add or remove RSCP.

EASE

If a provider initiates an EASE request to convert an account and the RSCP FID is present on the account, then EASE will error the CLEC Service Representative back to the initial EASE entry screen with an error message to indicate the account is restricted and **cannot** be converted.

The EASE error message will read:

E02155 - ACCOUNT CAN'T BE CONVERTED - CONTACT CURRENT PROVIDER TO REMOVE RSCP FID

The provider Service Representative should advise the end user:

- The account is restricted.
- End user must request the current provider of record to remove the indicator.
- The account **cannot** be converted until the indicator has been removed by the current provider of record.

LSC - If the LSC receives a manual request to convert an account and the RSCP FID is present on the account, then EASE will error the LSC Service Representative back to the initial EASE entry screen with an error message indicating the account is restricted and **cannot** be converted.

- LSC Service Representative will refer the request back to the requesting provider (manual FOC) and advise the account is restricted.
i.e., **ORDER CANCELED - RSCP**

Disputes

Disputes regarding a restricted account should be settled between the providers and the end user. SWBT LSC will **not** become involved.

Business Rules

The FID may be placed on an account or may be removed by the current provider of record, **at the request of the end user**. Request may be verbal or written.

- Once the FID is placed on the account, the account **cannot** be converted to another provider.
- The FID **must be removed at the request of the end user** by the current account provider prior to a conversion order being placed on the account by a new provider.

Programming Status

The FID usage has been referred to the industry Ordering Billing Forum (OBF) for mechanized local service request application supporting EDI & LEX systems. Prior to programming, any requests to place or remove the FID will have to be processed manually. Any requests to convert an account where the FID is present will have to be manually refused.

EASE currently supports the RSCP program.

Additional Information

For additional information or to begin using this program, contact your local SWBT Account Manager.

EXHIBIT 4

October 22 Accessible Letter

Accessible



SOUTHWESTERN BELL—"Customer Choice Protection"

Date: October 22, 1998

Number: CLEC98-088

Contact: Southwestern Bell Local Service Account Manager

This letter is intended to provide additional information concerning the removal of Customer Choice Protection (CCP) from SWBT retail accounts by the authorized SWBT retail end user. (Note: Customer Choice Protection is available in Arkansas, Kansas, Missouri and Oklahoma only.)

CCP may be added or removed via verbal request by the end user to the current provider of record as indicated in our previous accessible letter, dated: October 5, 1998.

A verbal request by the authorized SWBT retail end user directly to the SWBT retail business office is the preferred method for having CCP added to or removed from a SWBT retail account. Verbal requests assure timely receipt of the request by the appropriate retail business office and same business day or next business day service order initiation, based on time of day request is received.

Written requests from the authorized end user are accepted, but timing of CCP add/removal is dependent upon the method of paper delivery to SWBT. Service orders cannot be initiated until the request is received and processed by the appropriate SWBT retail business office. For these reasons, SWBT encourages verbal requests over written requests. See note.*

The following methods can be used to remove CCP from a SWBT end user account:

- **Verbal Three (3)-Way Call** - The SWBT end user and the CLEC may initiate a 3-way call to the appropriate SWBT retail business office and the end user may request verbally to have the CCP removed from the end user's account(s). Three-way calls will be accepted beginning November 2, 1998.
 - The service order number will be furnished to the retail end user at the time the verbal request is placed for ease of end user tracking the service order affecting CCP.
- **Written Request** - A SWBT retail end user authorized to make changes in an account may initiate a written request to have CCP removed via the CCP Removal form. The authorized end user must complete all appropriate data on the form and sign the form. CCP Removal forms will be accepted beginning November 2, 1998.

The end user may furnish the CCP Removal form to the potential new CLEC for the CLEC to

provide to SWBT retail. If the end user chooses to have the CLEC provide the form to SWBT, the CLEC must include the CLEC contact name and number on the form for any processing questions. CCP will be removed once the form is received and processed by the appropriate SWBT retail business office and the service order posts to the CRIS billing system.

Attached are authorization forms for use by CLECs desiring to utilize the written CCP removal procedure for existing SWBT retail accounts. A list of SWBT addresses and FAX numbers are attached to which a properly completed form may be sent to SWBT for internal SWBT business office (business or residence) distribution.

***Note: CCP service order posting within the CRIS billing system is required for CCP removal.**

There are inherent potential delays in system processing of any service order that may impact service order completion. e.g., other pending service orders; complexity of the account being processed; existing service orders in error status, accounts involved in a bill period close, etc. These and/or other account conditions follow normal mechanical system processes for posting of existing orders in CRIS prior to posting of the CCP removal service order in CRIS. These types of delays are equally applicable to all service orders for both SWBT retail and CLEC service orders.

Please associate this letter with other business rules related to CCP. Questions concerning CCP may be directed to your Local Provider Account Team Account Manager.

Attachment

CCP REMOVAL FORM SWBT RETAIL RETURN ADDRESS AND FAX NUMBERS

RESIDENCE - MISSOURI; KANSAS

600 ST. LOUIS ST.
SPRINGFIELD, MO 65806
FAX # 417-836-2912

OKLAHOMA

509 S. DETROIT
RM 1209
TULSA, OK 74120
FAX # 918 586-1960

ARKANSAS

515 W. PERSHING BLVD.
RM 434
NLR, AR 72116
FAX # 501 373-3378

BUSINESS ARKANSAS, KANSAS, MISSOURI AND OKLAHOMA

Alisia Payne
154 N Broadway Rm 1260
Wichita, KS 67202
316 383-3404
316 261-0602 (Fax)



10-98

**LOCAL PROTECTION REMOVAL FORM-RESIDENCE
ARKANSAS, KANSAS, MISSOURI AND OKLAHOMA**

**THIS IS TO AUTHORIZE SOUTHWESTERN BELL TELEPHONE COMPANY TO REMOVE
THE PROTECTION FOR LOCAL TELEPHONE SERVICE ON ALL THE ACCOUNTS LISTED
BELOW: (RESIDENCE ACCOUNTS ONLY)**

**NAME ON RESIDENTIAL
TELEPHONE ACCOUNT:** _____

ADDRESS: _____

CITY/STATE/ZIP: _____

**CUSTOMER'S AUTHORIZED
SIGNATURE:** _____

AUTHORIZED NAME (PRINT): _____

SOCIAL SECURITY NUMBER: _____

DATE: _____

RESIDENCE TELEPHONE NUMBER: () _____

**ADDITIONAL RESIDENCE NUMBERS
FOR WHICH LOCAL PROTECTION IS TO BE REMOVED:** _____

*****IF CLEC SUBMITTING FORM PLEASE COMPLETE BELOW *****

CLEC SUBMITTING FORM: _____

**CLEC CONTACT NAME
AND TELEPHONE NUMBER:** _____

(THIS FORM IS NOT VALID FOR TEXAS CUSTOMERS)

PAGE 1 OF 1



10-98

**LOCAL PROTECTION REMOVAL FORM-BUSINESS
ARKANSAS, KANSAS, MISSOURI AND OKLAHOMA**

THIS IS TO AUTHORIZE SOUTHWESTERN BELL TELEPHONE COMPANY TO REMOVE
THE PROTECTION FOR LOCAL TELEPHONE SERVICE ON ALL THE ACCOUNTS LISTED
BELOW: (BUSINESS ACCOUNTS ONLY)

NAME ON BUSINESS
TELEPHONE ACCOUNT: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

CUSTOMER'S AUTHORIZED
SIGNATURE: _____

AUTHORIZED NAME
AND TITLE (PRINT): _____

COMPANY NAME: _____

DATE: _____

BUSINESS TELEPHONE NUMBER: (____) _____

ADDITIONAL BUSINESS NUMBERS FOR WHICH
LOCAL PROTECTION IS TO BE REMOVED: _____

***** IF CLEC SUBMITTING FORM PLEASE COMPLETE BELOW *****

CLEC SUBMITTING FORM: _____

CLEC CONTACT NAME AND TELEPHONE NUMBER: _____

(THIS FORM IS NOT VALID FOR TEXAS CUSTOMERS)

PAGE 1 OF 1